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Attorney's Docket No. 015200-054

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of )  
AMMON et al ) Group Art Unit: 1623  
Application No.: 09/011,977 ) Examiner: H. Owens, Jr.  
Filed: June 15, 1998 )  
For: USE OF BOSWELLIC ACID AND )  
ITS DERIVATIVES FOR )  
INHIBITING NORMAL AND )  
INCREASED LEUCOCYTIC )  
ELASTASE OR PLASMIN )  
ACTIVITY )

**PRELIMINARY REMARKS**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

Prior to examination of the above-identified patent application, applicants provide the following remarks.

In the Advisory Action mailed April 5, 2001, the Examiner stated that the 35 U.S.C. § 112, second paragraph, rejection of claims 10 and 12-26 have been maintained because the term "plant extract" is purportedly indefinite.

In response to the Examiner's remarks, the applicants provide the following.

Enclosed is a copy of the United States Pharmacopeia (USP 23:167-168 (1995)). On page 167 of the publication, the preparation of a Belladonna extract is exemplified. Applying said protocol to the plant extract of the present invention, the term "plant extract" can be defined either as fluid-extracts by maceration of gum resin of boswellic species with

inorganic or organic solvents or as powdered (dry) extracts after evaporation of the applied solvents. The fact that the preparation of a plant extract is disclosed in the United States Pharmacopoeia shows that a person skilled in the art, at the time the present application was filed, would understand what is meant by a "plant extract," and would be well aware of how to obtain a "plant extract." Furthermore, one of skill in the art would know how to determine whether an obtained plant extract contains boswellic acid. Therefore, applicants assert that the term "plant extract" is definite, and therefore request that the remaining rejection of the claims be withdrawn and the above-identified application allowed.

**CONCLUSION**

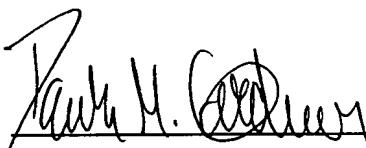
From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such action is earnestly solicited.

In the event that there are any questions relating to this application, the Examiner is invited to telephone the undersigned so that prosecution of the subject application may be expedited.

Respectfully submitted,

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